

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

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KENNETH M. SEATON d/b/a : 3:11-cv-00549
GRAND RESORT HOTEL AND :
CONVENTION CENTER, :
Plaintiff, :
- against - :
TRIPADVISOR, LLC, :
Defendant. :
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DEFENDANT TRIPADVISOR, LLC'S MOTION TO DISMISS THE COMPLAINT

Defendant, TripAdvisor, LLC, by and through counsel, hereby files its Motion to Dismiss Plaintiff's Complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, on the grounds that Plaintiff has failed to state a claim against Defendant upon which relief can be granted. As grounds in support of this Motion, Defendant would show the Court as follows:

1. Plaintiff's Complaint fails to state a claim for relief because his Complaint fails to meet the minimal pleading standards set forth in Ashcroft v. Iqbal, 129 S.Ct. 1937, 1949 (2009) and Bell Atlantic v. Twombly, 550 U.S. 544 (2007).
2. The conduct complained of in Plaintiff's Complaint is constitutionally protected pursuant to the First Amendment and Article 1, Section 19 of the Tennessee Constitution.
3. A Memorandum in Support of this Motion to Dismiss as well as the Declaration of Cindy Klein Roche are filed contemporaneously herewith and incorporated by reference as if set forth fully herein.

WHEREFORE, for the above and foregoing reasons, Defendant respectfully requests that this Court grant its Motion to Dismiss and dismiss all claims against it in this case.

Respectfully submitted,

BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ

By: s/S. Russell Headrick

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CERTIFICATE OF SERVICE

I hereby certify that on January 6, 2012, a true and correct copy of the foregoing document was electronically filed with the United States District Court for the Eastern District of Tennessee, and was served on all counsel by the court's electronic filing notification or via email.

s/ S. Russell Headrick

S. Russell Headrick